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Page 1

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2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF MASSACHUSETTS
5 CIVIL ACTION NO. 4:21-CV-10572-TSH
6

7 KPM ANALYTICS NORTH AMERICA CORPORATION,)
8 Plaintiff,)
9 vs.)
10 BLUE SUN SCIENTIFIC, LLC, THE INNOVATIVE)
11 TECHNOLOGIES GROUP & CO., LTD., ARNOLD)
12 EILERT, MICHELLE GAJEWSKI, ROBERT)
13 GAJEWSKI, RACHAEL GLENISTER, GREGORY)
14 ISRAELSON, IRVIN LUCAS, AND PHILIP OSSOWSKI,)
15 Defendants.)

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17 REMOTE VIDEOTAPED DEPOSITION OF
18 BLUE SUN SCIENTIFIC, LLC, BY IRVIN R. LUCAS, IV,
19 called as a witness by and on behalf of the
20 Plaintiff, pursuant to the applicable provisions of
21 the Federal Rules of Civil Procedure, Rule
22 30(b)(6), before P. Jodi Ohnemus (remotely), RPR,
23 RMR, CRR, NH-LSR #91, MA-CSR #123193 and CA-CSR
24 #13192, at Los Angeles, California, on Tuesday,
25 July 6, 2021, commencing at 7:02 a.m. (PDT).

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Page 18

1 A. Myself, Irvin Lucas; Rachael Glenister;
2 Phil Ossowski; Arnold Eilert; Josh Sarver; and Doug
3 Evans.

4 Q. What's your title at Blue Sun?

5 A. My title is president.

6 Q. When did you become president?

7 A. Became president -- it's kind of murky,
8 but I would say I became president on -- late July
9 of 2018.

10 Q. Is that the first and only position you've
11 held at Blue Sun?

12 A. Yes, it is.

13 Q. What's Ms. Glenister's title?

14 A. She's the North America sales director.

15 Q. Is that the only position that she has
16 ever held at Blue Sun?

17 A. Yes, it is.

18 Q. When did she join Blue Sun?

19 A. She joined Blue Sun late July of 2020.

20 Q. What's Mr. Ossowski's title?

21 A. He's an applied technology manager.

22 Q. And, in general, what are his
23 responsibilities as an applied technology manager?

24 A. His responsibilities are to assist
25 customers with the Phoenix product line, also do

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Page 56

1 A. Again, these are the individuals I know in
2 the NIR industry.

3 Q. Any other reason?

4 A. Nope.

5 Q. Did you recruit all of the former KPM
6 affiliated individuals who are now either Blue Sun
7 employees or independent contractors to Blue Sun?

8 A. Yes, I did.

9 Q. How did you get involved with Blue Sun?

10 A. Well, it's a long story. So in early 2018
11 there was an email that kind of came out within KPM
12 from Bob Schumann stating that ITG had a new
13 instrument that was going to be on display at a --
14 a forage show in January 2018. He was asking the
15 individuals that are attending that show to gather
16 information and report back.

17 That's my first knowledge that there is
18 another competitor out there in the market. All I
19 was aware of was FOSS, Perten, Bruker, BUCHI, and
20 then KPM existed.

21 KPM was going through a lot of changes in
22 regards to its structure. When I came to Unity in
23 2015, in January, you know, it was a small company,
24 you know, very tight-knit, customer-focused and,
25 you know, focused on the development of the

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Page 57

1 individuals.

2 By 2017, that focus had changed
3 significantly to the point that it was, you know,
4 primarily focused on metrics, analytics, and
5 numbers, not so much customer focus and definitely
6 not, you know, focused on how they are going to
7 advance individuals.

8 So I was interested in finding another
9 place to go to, but FOSS, Bruker, PerkinElmer, and
10 BUCHI are even larger organizations, and that's not
11 something I've had interest in in my career. I've
12 always worked for small companies.

13 So upon hearing about this, I, you know,
14 got their information online, reached out to -- to
15 Robert Wilt and told him that I'd be interested, if
16 he was, to, you know, formulate a sales and service
17 organization that could be the sales arm for his
18 products and services within NIR.

19 We had a variety of conversations starting
20 April 2018. Me to learn more about ITG. You know,
21 at that point in time I became aware of their
22 history and background in regards to the
23 manufacturing and involvement with Unity
24 Scientific, you know, from its inception through
25 2008 when they sold it to Westco, and then the

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Page 58

1 continued involvement in providing parts and
2 services to Unity Scientific until the -- the
3 latest instrument, the SpectraStar XT, came out in
4 2016.

5 So with that background, that gave me some
6 confidence. And then Bob and learning about my
7 background in sales and the marketing
8 organizations, you know, he had confidence to go
9 ahead and give us a try, and he went forward and
10 incorporated Blue Sun in July of 2018.

11 Q. So the formation of Blue Sun or an entity
12 like Blue Sun for ITG was your idea?

13 A. Correct.

14 Q. What was your position at Unity when you
15 joined them in 2015?

16 A. I was a sales representative. So account
17 manager.

18 Q. And did you have a particular geographic
19 region, set of customers, or other definition of
20 your responsibilities?

21 A. Yes, I did. So initially when I started I
22 was located in Chicago. So my initial territory
23 was Illinois, Indiana, Michigan. I had eastern
24 Canada. I then also had Wisconsin -- I didn't have
25 Wisconsin. I had Illinois, Indiana, Michigan,

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Page 60

1 product manager but his official -- official title
2 for KPM, at least when I was there, was marketing.

3 Q. And you said he had asked folks attending
4 a trade show to check out this new competitor?

5 A. That's correct.

6 Q. And were you one of the people attending
7 that trade show?

8 A. I was not.

9 Q. Was the product that ITG came on the
10 market with in early 2018 the Phoenix analyzer
11 under the ITG name?

12 A. It was the -- the M5, which became the
13 Phoenix upon the rebranding.

14 Q. Had ITG been offering an NIR analyzer in
15 the marketplace prior to that?

16 A. Yes, they had.

17 Q. And what was that product?

18 A. That was also the M5. January is just
19 when KPM became aware that that was occurring.

20 Q. I see.

21 When did ITG first offer that M5 analyzer
22 in the market?

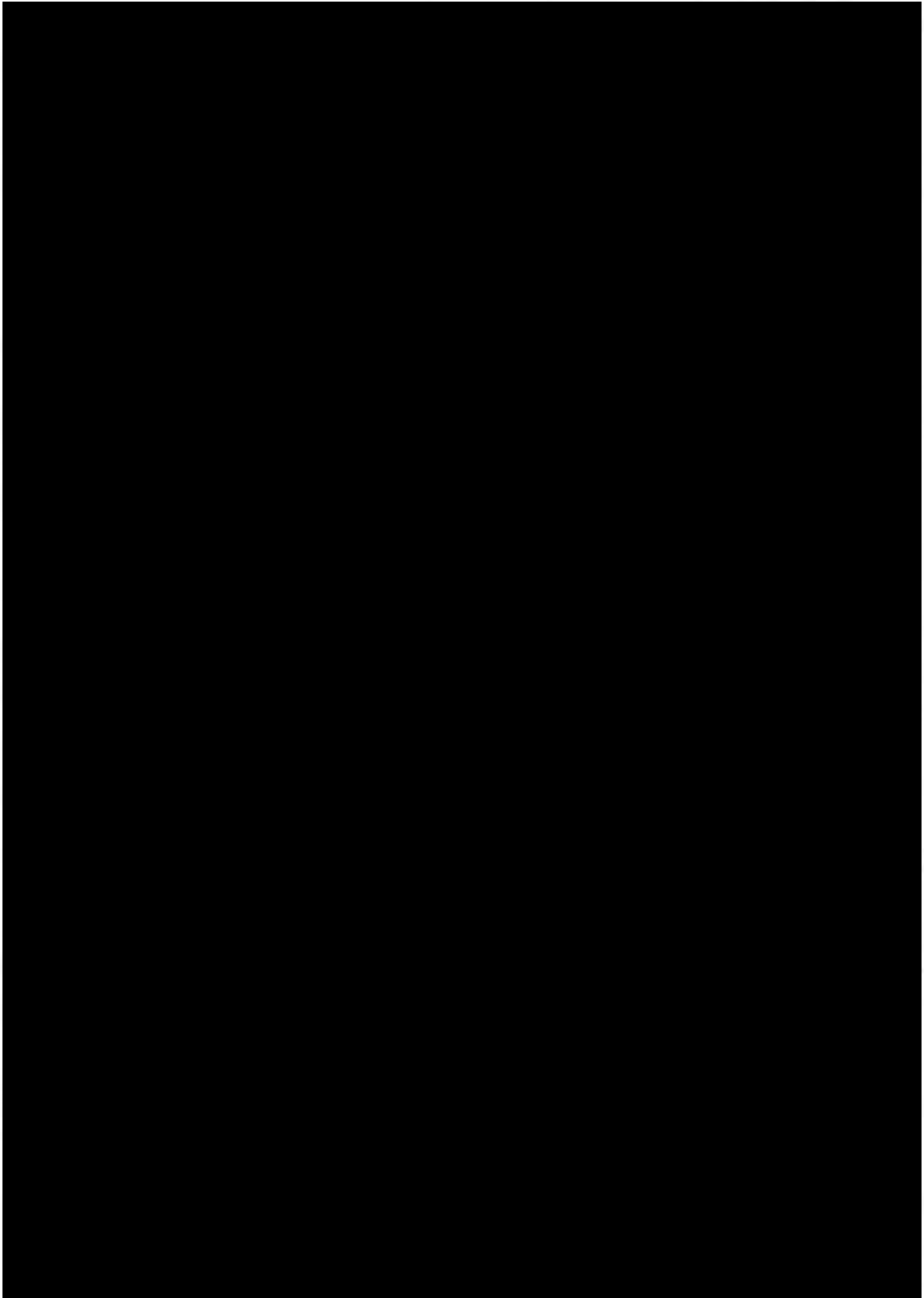
23 A. I don't know the exact dates. I just know
24 that it precedes January 2018.

25 Q. Okay. Did -- I think you said you first

HIGHLY CONFIDENTIAL

Page 61

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HIGHLY CONFIDENTIAL

Page 62

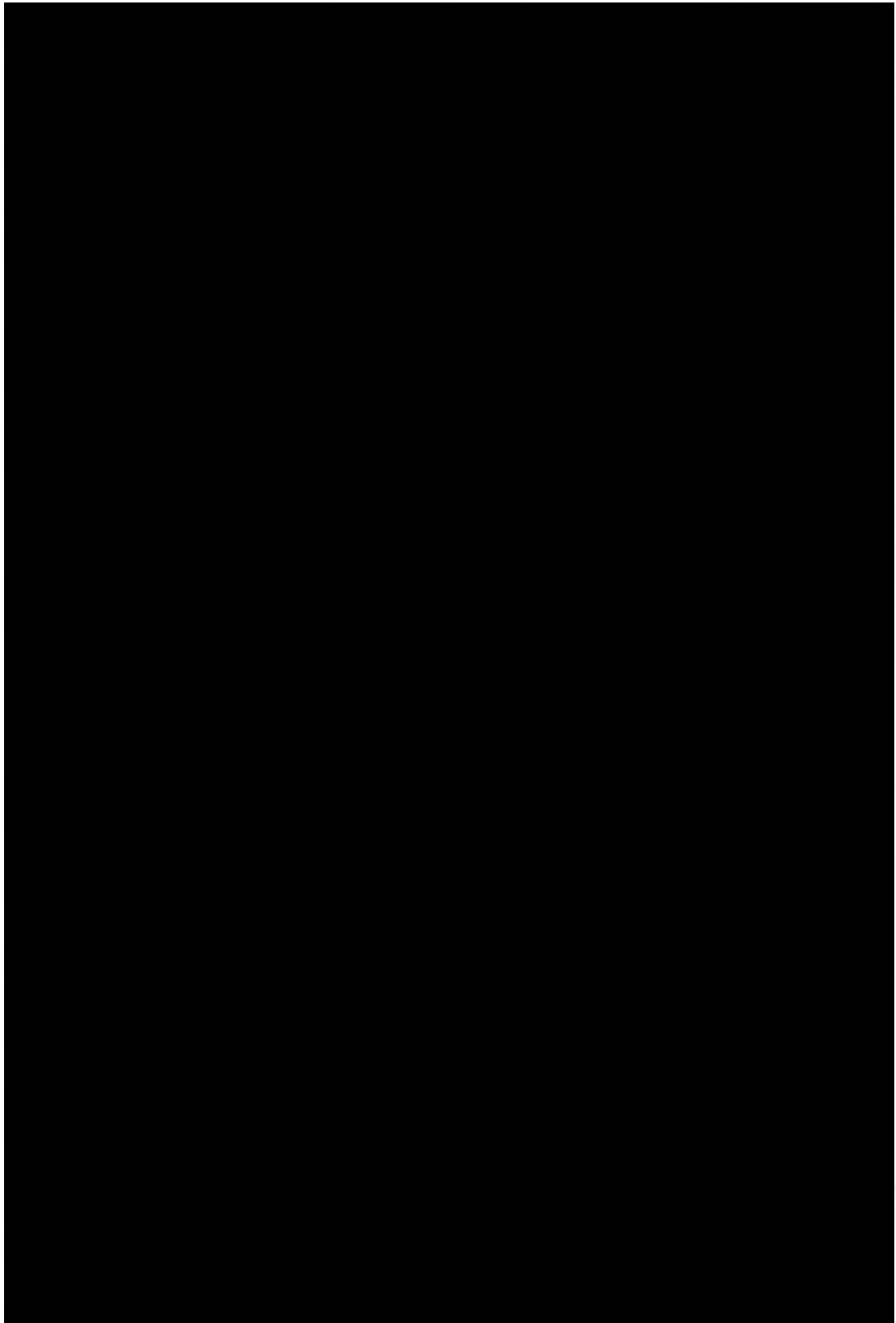
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HIGHLY CONFIDENTIAL

Page 108

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HIGHLY CONFIDENTIAL

Page 110

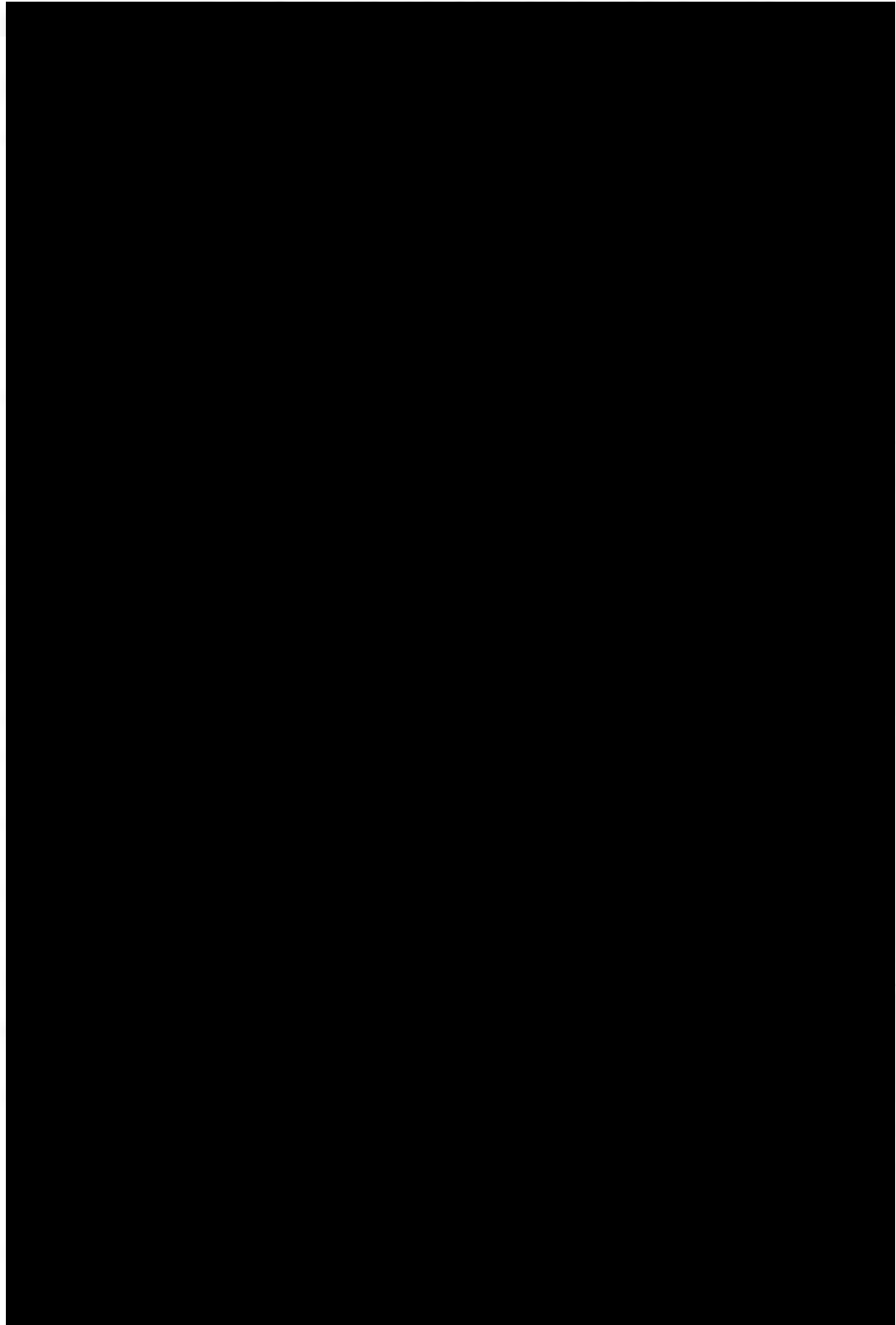
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HIGHLY CONFIDENTIAL

Page 111

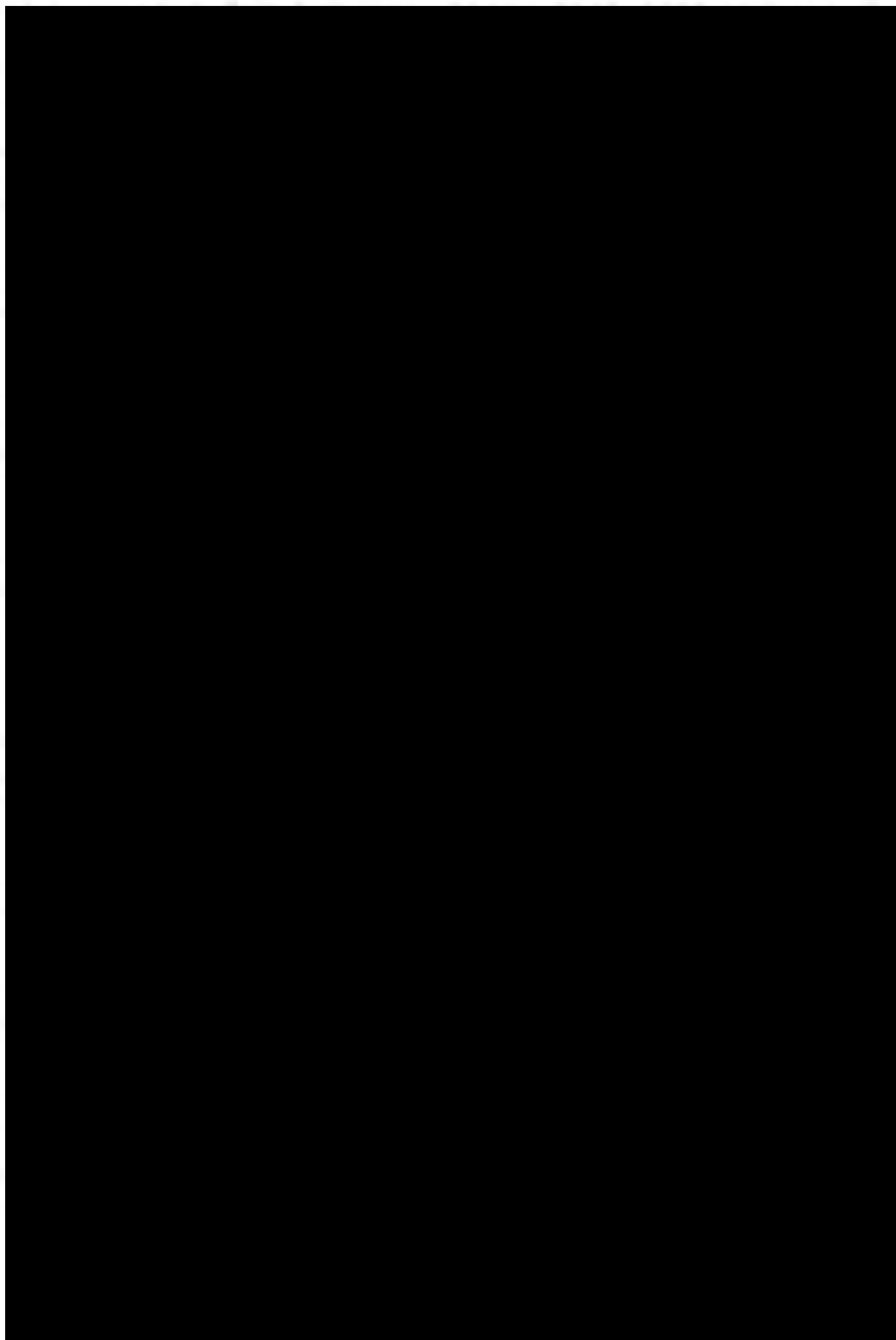
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HIGHLY CONFIDENTIAL

Page 119

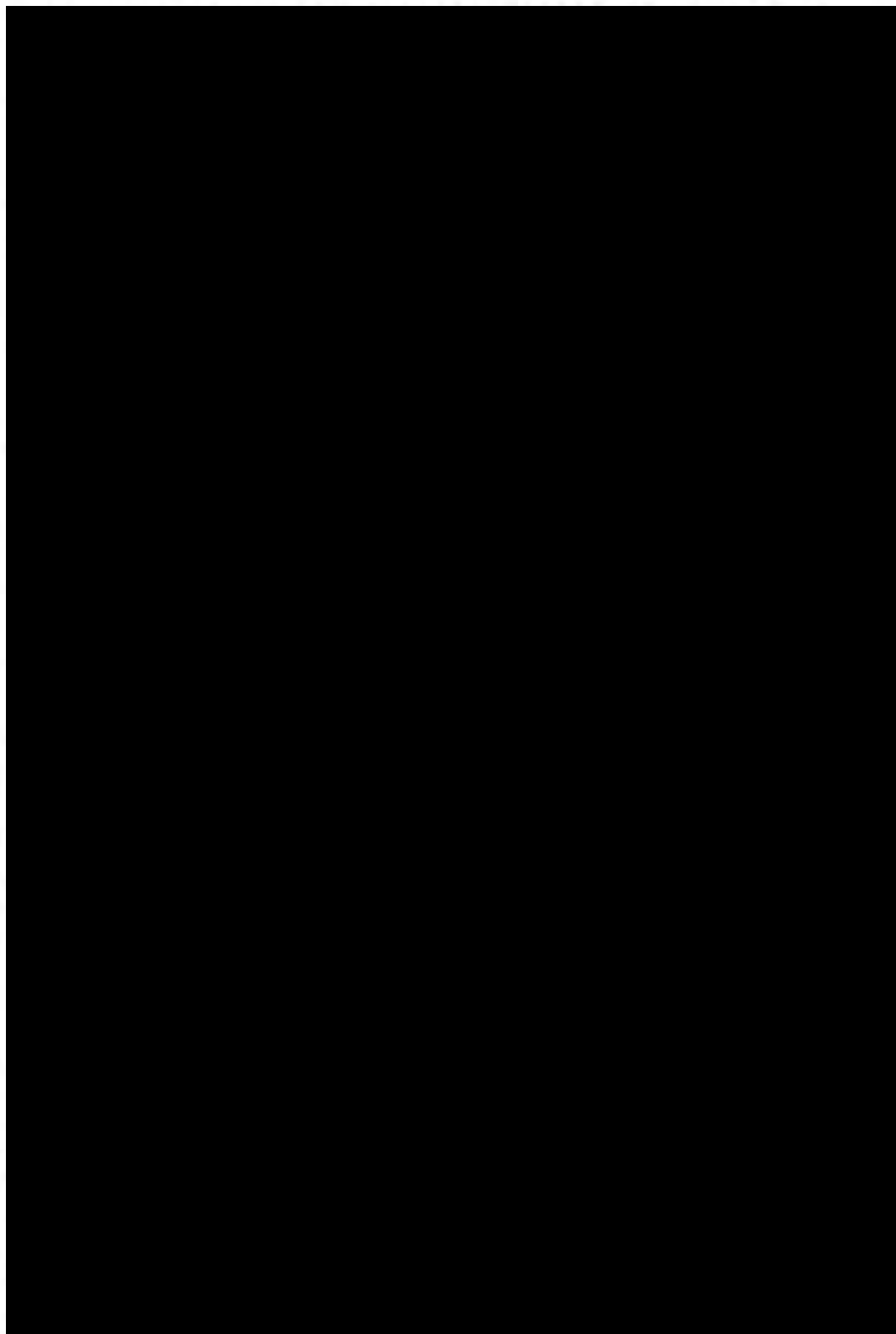
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HIGHLY CONFIDENTIAL

Page 131

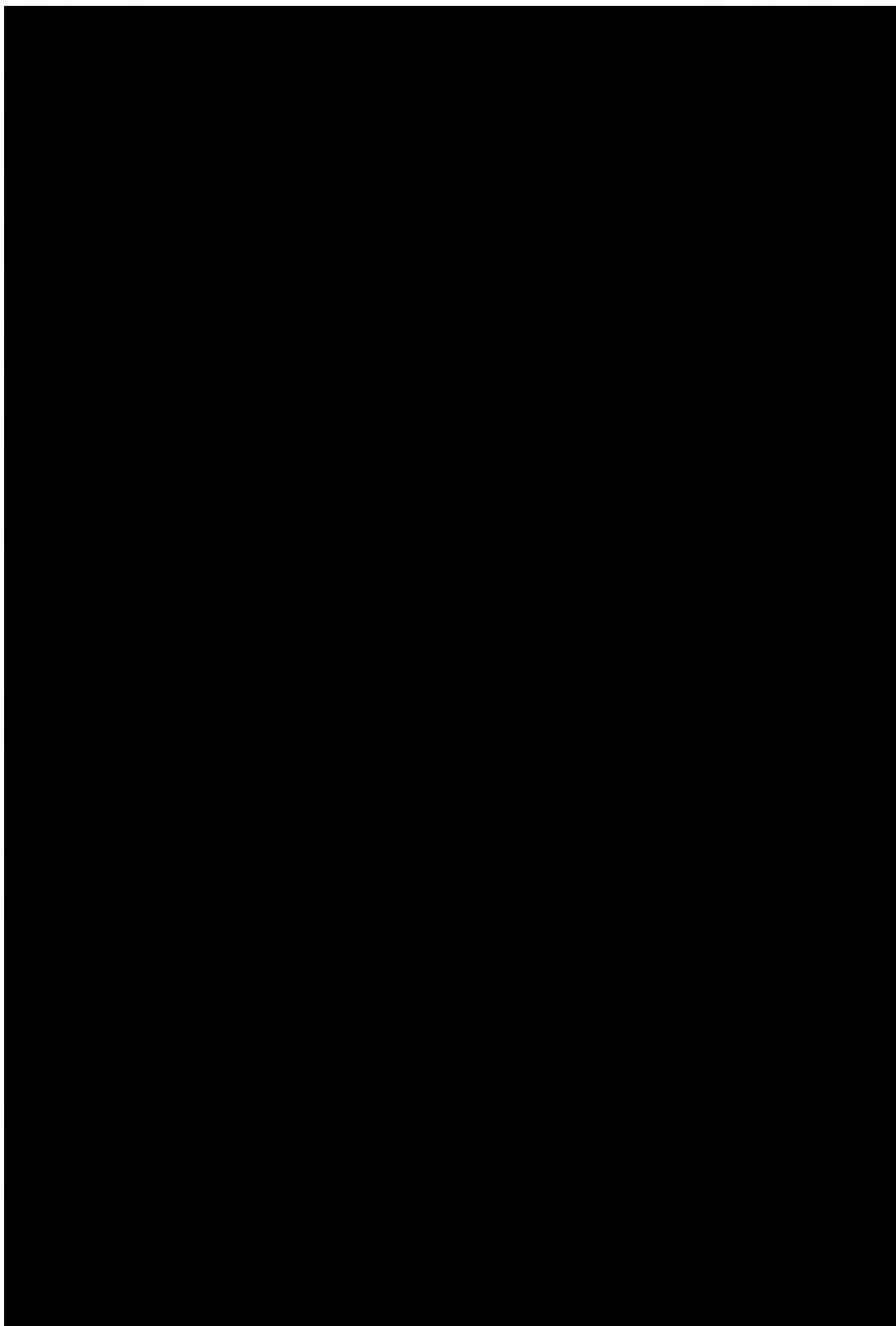
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HIGHLY CONFIDENTIAL

Page 149

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HIGHLY CONFIDENTIAL

Page 225

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